



U.S. Army Corps
of Engineers
Buffalo District
CELRB-TD-OT

Public Notice

Requestor: Jeffery
Burroughs (Town of
Amherst Engineering
Department)

Request No. 408-LRB-2019-0005
Published: January 15, 2020
Expires: February 04, 2020

Section: Operations & Technical Support Section

All written comments should reference the above Application No. and be addressed to:

US Army Corps of Engineers, Buffalo District
(Attn:) Jason Doktor
Operations & Technical Support Section
1776 Niagara Street
Buffalo, NY 14207

REQUEST FOR PERMISSION TO ALTER A U.S. ARMY CORPS OF ENGINEERS PROJECT UNDER UNITED STATES CODE TITLE 33, SECTION 408

THE PURPOSE OF THIS PUBLIC NOTICE IS TO SOLICIT COMMENTS FROM THE PUBLIC REGARDING THE WORK DESCRIBED BELOW. NO DECISION HAS BEEN MADE AS TO WHETHER OR NOT AN ALTERATION WILL BE GRANTED AT THIS TIME.

COMMENTS: Comments on the described work should reference the U.S. Army Corps of Engineers Request number shown above and must reach this office no later than the above expiration date of the Public Notice to become part of the record and be considered in the decision. Comments should be mailed to the above address or emailed to jason.p.doktor@usace.army.mil.

FEDERAL CIVIL WORKS PROJECT DESCRIPTION: The flood risk management (FRM) project at Ellicott Creek, Amherst, Erie County, New York, was federally constructed and is locally maintained. A Local Cooperation Agreement (LCA), between the Government and the New York State Department of Environmental Conservation, requires that the local sponsor accept, maintain, and operate the entire project, in accordance with regulations prescribed by the Secretary of the Army. The federal project consists of approximately 2.1 miles of creek channel enlargement and a reinforced concrete floodwall on the right bank extending approximately 870 feet from Maple Road. Also included as part of the project are three diversion channels and the enlargement of an existing diversion channel. Erosion protection is provided throughout the project where dictated by hydraulic conditions. Recreational facilities include a bike/hike path, open park areas and a recreation pond. The project was designed to provide protection from floods that have an average recurrence interval of 100 years.

ALTERATION LOCATION: The JJ Audubon Parkway Bridges over Ellicott Creek, Amherst, New York.

PROPOSED ACTION: The requestor is proposing to replace the superstructure of the existing southbound bridge with a similarly-sized structure, while raising the vertical alignment to accommodate improved under-bridge clearance for the Ellicott Creek T railway bike path. Additionally, the project will reduce approximately 1000 linear feet of JJ Audubon Parkway from a 4-lane divided parkway to a 2-lane road with one lane in each direction. The superstructure of the existing northbound bridge will be replaced with a pedestrian/ bicycle-only bridge.

LOCATION MAPS AND DRAWINGS: The attached map shows the approximate location of the proposed project in relation to the FRM Project. See Attachment.

ADDITIONAL INFORMATION: Additional information may be obtained by contacting Jason Doktor, ICW Program Manager, U.S. Army Corps of Engineers, at (716) 879-4385. Your inquiries may also be sent by email to Jason.P.Doktor@usace.army.mil

REGULATORY AUTHORITY: This request will be reviewed in accordance to the provisions of Section 14 of the Rivers and Harbors Act of 1899 (33 U.S.C. 408). This activity does not require a Section 10 (Rivers and Harbors Act) or Section 404 (Clean Water Act) permit review based on the submitted plans. There are no direct impacts to wetlands or waters of the U.S. associated with the project.

EVALUATION: The decision whether to grant the requested permission for the project alteration under Section 408 will be based on several factors. That decision will reflect the national concern for both protection and utilization for important resources. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. Review of the requests for alteration will be reviewed by a U.S. Army Corps of Engineers technical review team considering the following factors:

1. **Impair the Usefulness of the Project Determination.** The review team will determine if the proposed alteration would limit the ability of the project to function as authorized, or would compromise or change any authorized project conditions, purposes or outputs. The decision whether to approve a request for alteration would be based on a determination of no impairments.
2. **Injurious to the Public Interest Determination.** Proposed alterations will be reviewed to determine the probable impacts, including cumulative impacts, on the public interest. Evaluation of the probable impacts that the proposed alteration to the U.S. Army Corps of Engineers project may have on the public interest requires a careful weighing of all those factors that are relevant in each particular case. Factors that may be relevant to the public interest depend upon the types of USACE project being altered and may include, but are not limited to, such things as conservation, economic development, historic properties, cultural resources, environmental impacts, water supply, water quality, flood hazards, floodplains, residual risk, induced damages, navigation, shore erosion and accretion, and recreation. The decision whether to approve an alteration will be determined by the

consideration of whether benefits are commensurate with risks. If the potential detriments are found to outweigh the potential benefits, then it may be determined that the proposed alteration is injurious to the public interest.

3. Environmental Compliance. A decision on a Section 408 request is a federal action, and therefore subject to the National Environmental Policy Act (NEPA) and other environmental compliance requirements. While ensuring compliance is the responsibility of USACE, the requester is providing all information that the Buffalo District identifies as necessary to satisfy all applicable federal laws, executive orders, regulations, policies, and ordinances. NEPA and other analysis completed to comply with the other environmental statutes (e.g. Endangered Species Act) should be commensurate with the scale and potential effects of the activity that would alter the US Army Corps of Engineers project. The scope of analysis for the NEPA and environmental compliance evaluations for the Section 408 review is limited to the area of alteration and those adjacent areas that are directly or indirectly affected by the alteration.
4. Environmental Impact Statement. A preliminary determination has been made that an environmental impact statement is not required for the proposed work.
5. Technical Analysis. The Buffalo District is working closely with the requestor to ensure that all technical plans, maps, drawings, specifications are provided and complete. A District-led Technical Review is being conducted to determine any potential adverse impacts to the U.S. Army Corps of Engineers flood protection system.

SOLICITATION OF COMMENTS: The U.S. Army Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of the proposed activity. Any comments received will be considered by the U.S. Army Corps of Engineers to determine whether to issue, modify, condition or deny a permission for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and other public interest factors listed above. Comments are taken into consideration in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest if the proposed activity.

SUMMARY: It should be noted that materials submitted as part of the Section 408 request become part of the public record and are thus available to the general public under the procedures of the Freedom of Information Act (FOIA). Individuals may submit a written request to obtain materials under FOIA or make an appointment to view the project file at the Buffalo District Corps of Engineers, Office of Counsel.

Interested parties wishing to comment on the proposed activity must do so in writing no later than **February 04, 2020**. It is presumed that all parties receiving this notice will wish to respond to this public notice; therefore, a lack of response will be interpreted as meaning that there is no objection

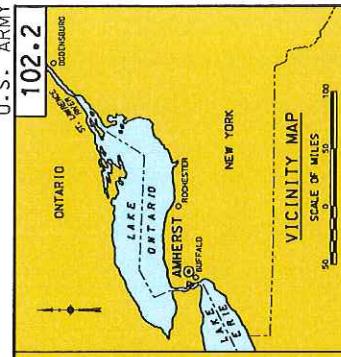
to the project as described.

This public notice is not a paid advertisement and is for public information only. Issuance of this notice does not imply Corps of Engineers endorsement of the project as described.

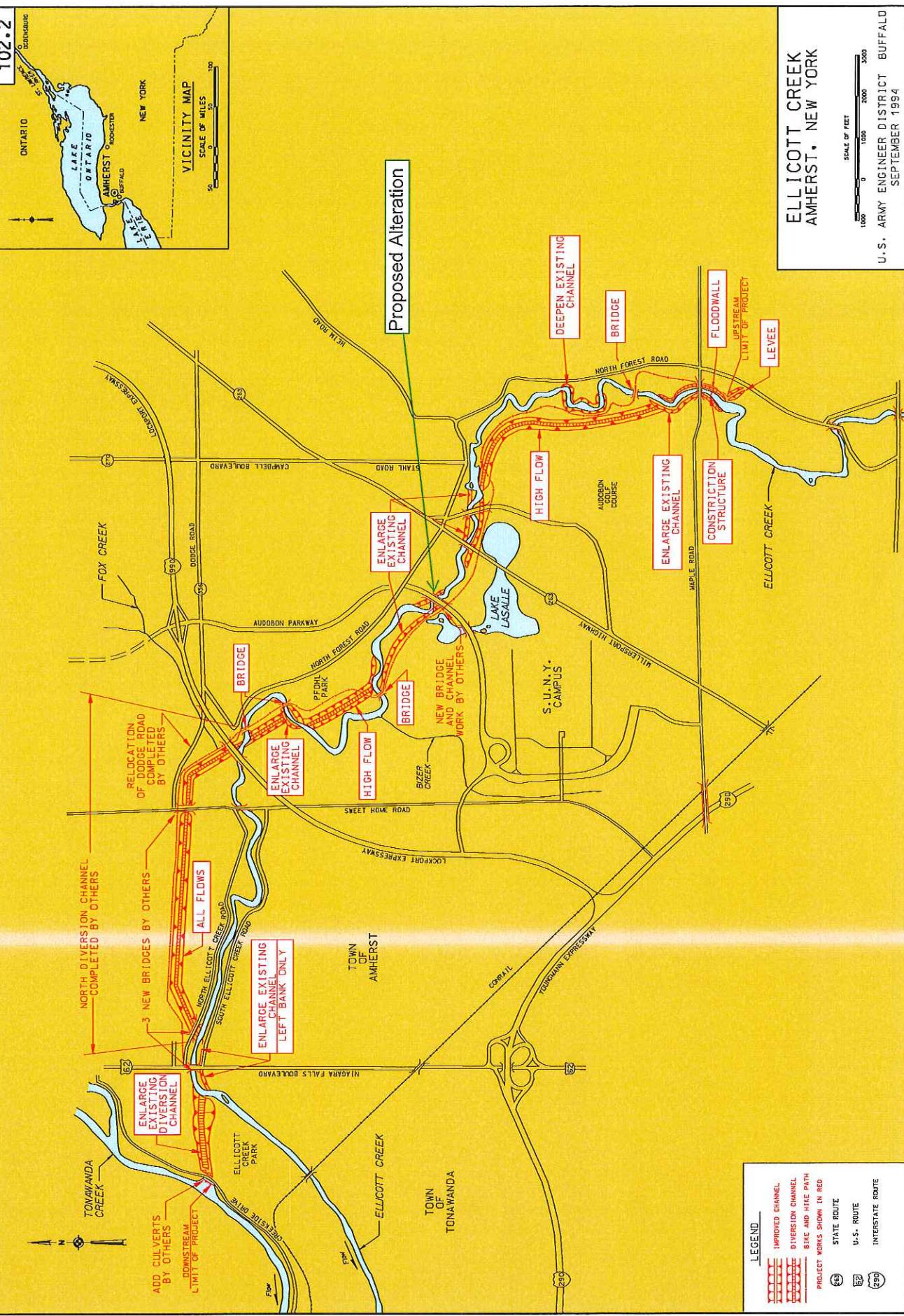
SIGNED

Robert W. Remmers
Chief, Operations and Technical Support Section

NOTICE TO POSTMASTER: It is requested that this notice be posted continuously and conspicuously for 20 days from the date of issuance.



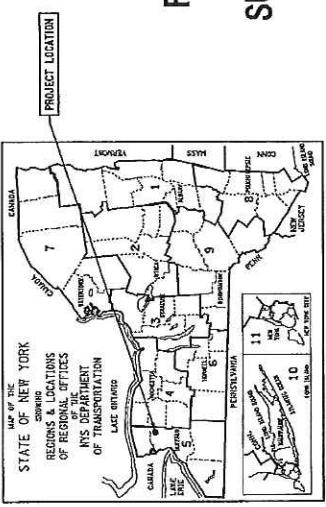
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ELLIOTT CREEK
AMHERST, NEW YORK

SCALE OF FEET
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U.S. ARMY ENGINEER DISTRICT BUFFALO
SEPTEMBER 1994

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NEW YORK STATE OF OPPORTUNITY.

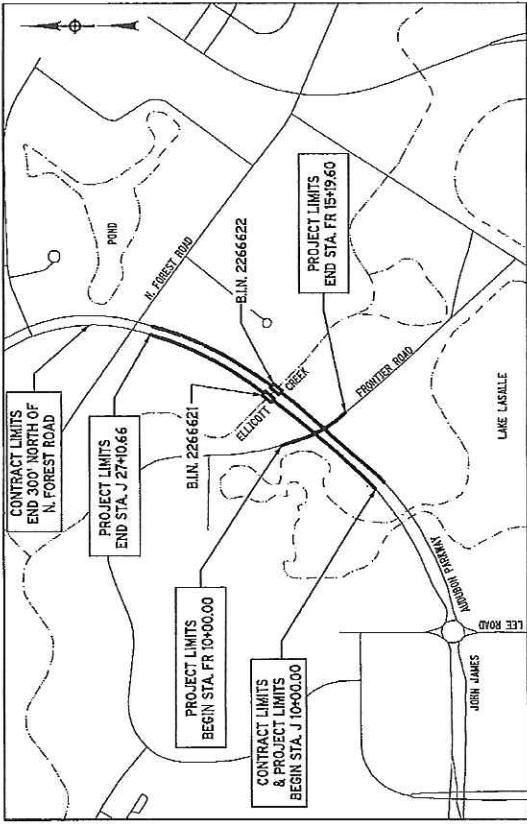
Department of Transportation

FULL DEPTH RECONSTRUCTION AND NEW ROUNDABOUT AT JOHN JAMES AUDUBON PARKWAY AND FRONTIER ROAD; SUPERSTRUCTURE REPLACEMENT OF JOHN JAMES AUDUBON PARKWAY (BIN 2266621) AND NEW PEDESTRIAN BRIDGE (BIN 2266622) OVER ELLICOTT CREEK

F.A. PROJECT

CONTRACT D263983

ERIE COUNTY



CONTRACTOR'S NAME _____	AWARD DATE _____
COMPLETION DATE _____	FINAL ACCEPTANCE DATE _____
REGIONAL DIRECTOR _____	ENGINEER IN CHARGE _____
FINAL COST TOTAL _____	COST(S) _____
FISCAL SHARE _____	_____



RECOMMENDED BY <i>[Signature]</i>	DATE 3-22-19
APPROVED BY <i>[Signature]</i>	DATE 3-25-19

CERTIFICATION
PERIODIC INSPECTION

D263983

D263983

THE LATEST REVISIONS OF THE STANDARD SHEETS MAINTAINED BY THE DEPARTMENT, WHICH ARE CURRENT ON THE DATE OF ADVERTISEMENT FOR BIDS, SHALL BE CONSIDERED TO BE IN EFFECT; ALL PAY ITEMS AND WORK CONTAINED IN THE CONTRACT AND ANY ADDITIONAL PAY ITEMS, AND WORK ENCOUNTERED DURING THE COURSE OF THE CONTRACT SHALL BE SUBJECT TO THE CONTRACT DOCUMENTS, EXCEPT AS PROVIDED IN THESE PLANS OR BY CHANGES SET FORTH IN THE CONTRACT DOCUMENTS. THE SPECIFICATIONS, THE CONTRACT DOCUMENTS, THE CONTRACT PROPOSAL, THE CONTRACT PRICE, AND THE CONTRACT DRAWINGS ARE THE CONTRACT DOCUMENTS.

CONTRACT PLANS HAVE BEEN DESIGNED IN ACCORDANCE WITH STATE POLICES AND GUIDELINES AND THE FINAL DESIGN REPORT APPROVED ON 09/06/2016.

ALL WORK CONTRACTED UNDER THIS CONTRACT IS TO BE COVERED BY, AND IN CONFORMITY WITH, THE CONTRACT DOCUMENTS. THE CONTRACT DOCUMENTS ARE THE CONTRACT PROPOSAL, THE CONTRACT PRICE, THE CONTRACT DRAWINGS, THE SPECIFICATIONS, AND THE CONTRACT DRAWINGS.

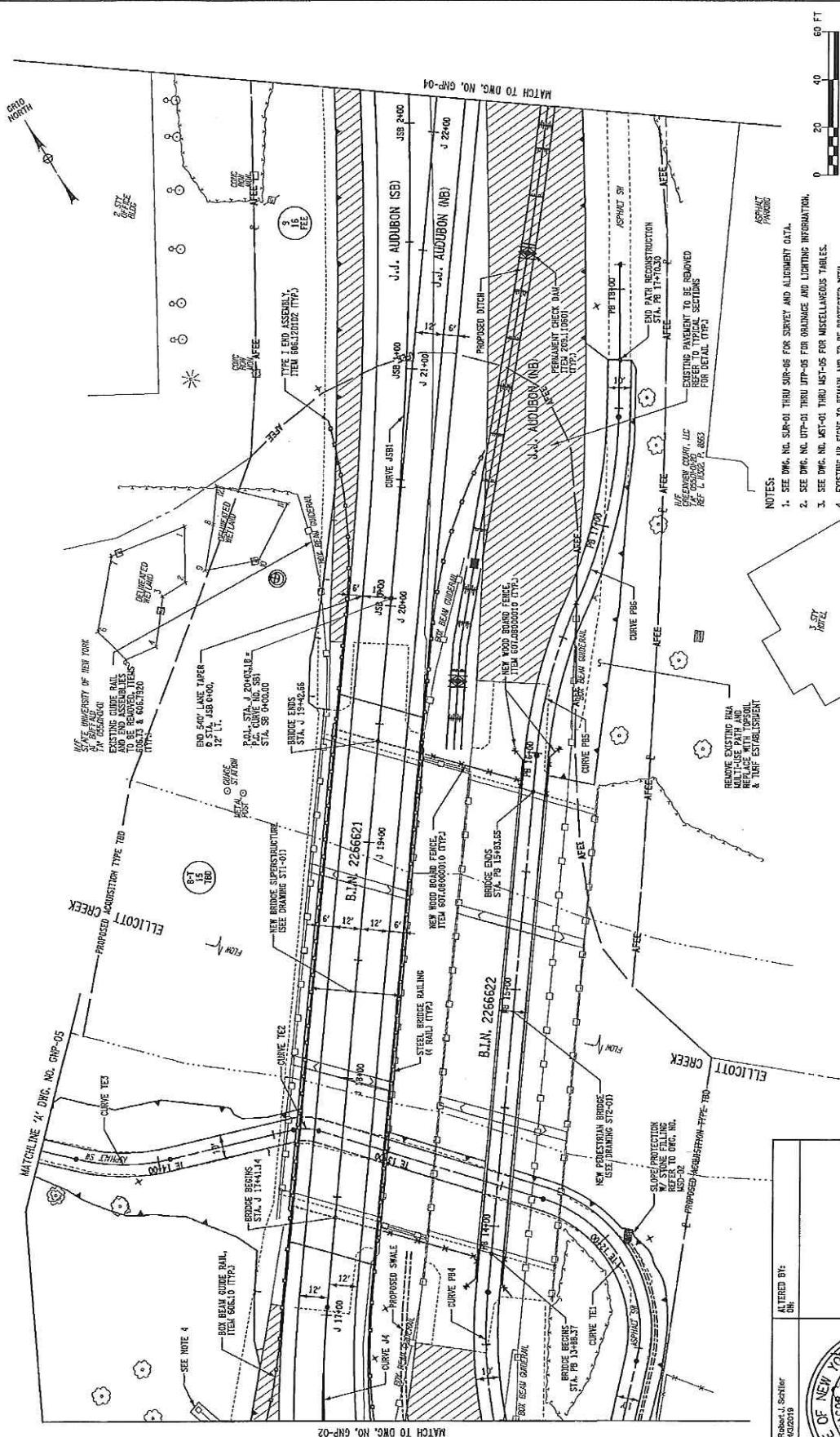
APPROVED BY <i>[Signature]</i>	DATE 3/21/19
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PREPARED AND RECOMMENDED BY <i>[Signature]</i>	DATE 3/21/19
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APPROVED BY <i>[Signature]</i>	DATE 3/21/19
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TOURA PLAN ASSISTANT DIRECTOR FACILITIES DESIGN & CONSTRUCTION ASSISTANT DIRECTOR OF NEW PEDESTRIAN BRIDGE OVER ELLICOTT CREEK, TOWN OF AMHERST		
COUNTY: ERIE		
FED. ROAD REC. NO.	STATE	SHEET NO.
1	N.Y.	1
CAPITAL PROJECT 576122 IDENTIFICATION NO. DATE		
INDEX ON SHEET NO. 2		

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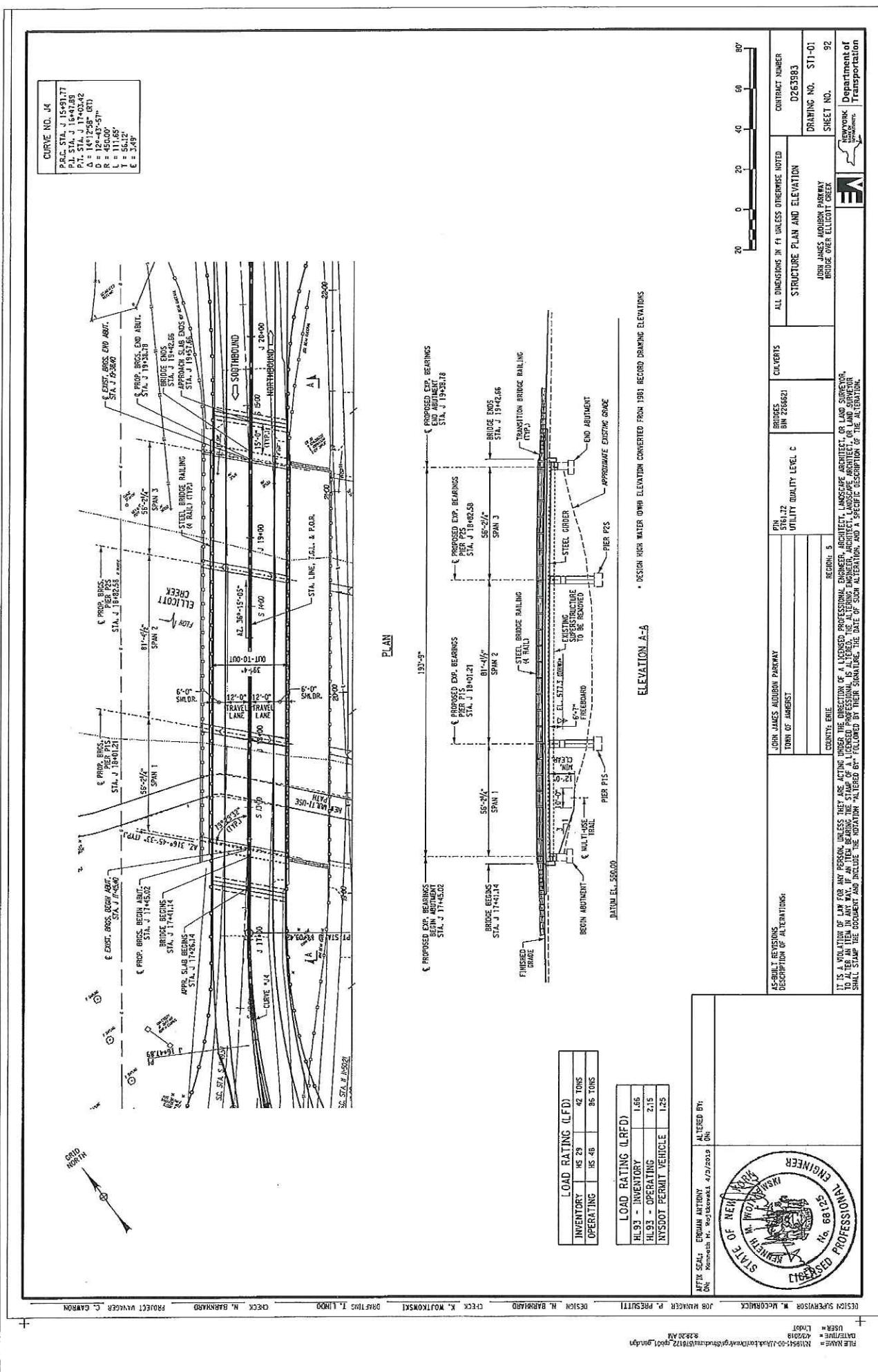
SHALL STAMP THE DOCUMENT AND INCLUDE THE NOTATION "ALTERED BY" FOLLOWED BY THEIR SIGNATURE, THE DATE OF SUCH ALTERATION, AND A SPECIFIC DESCRIPTION OF THE ALTERATION.

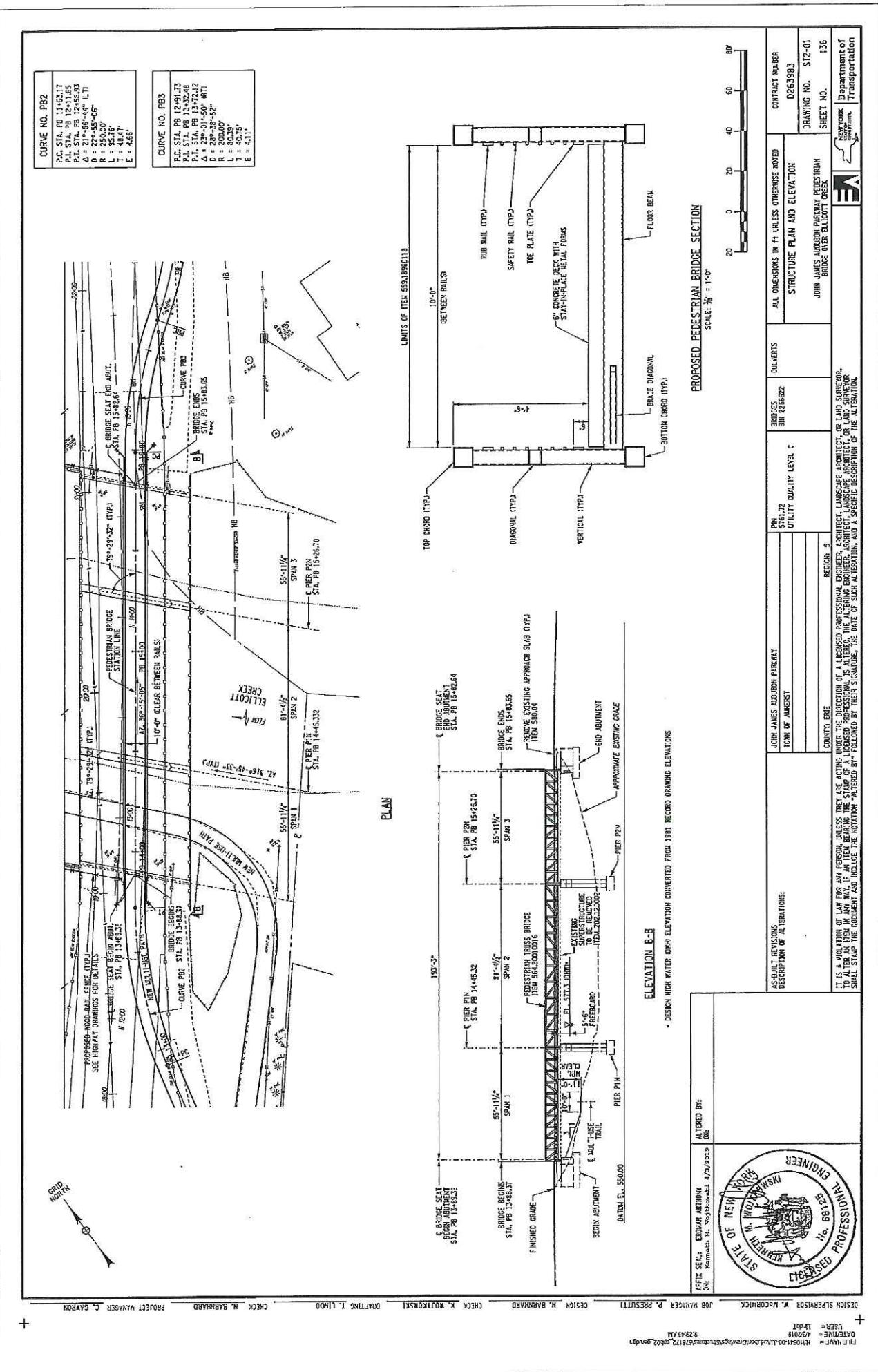
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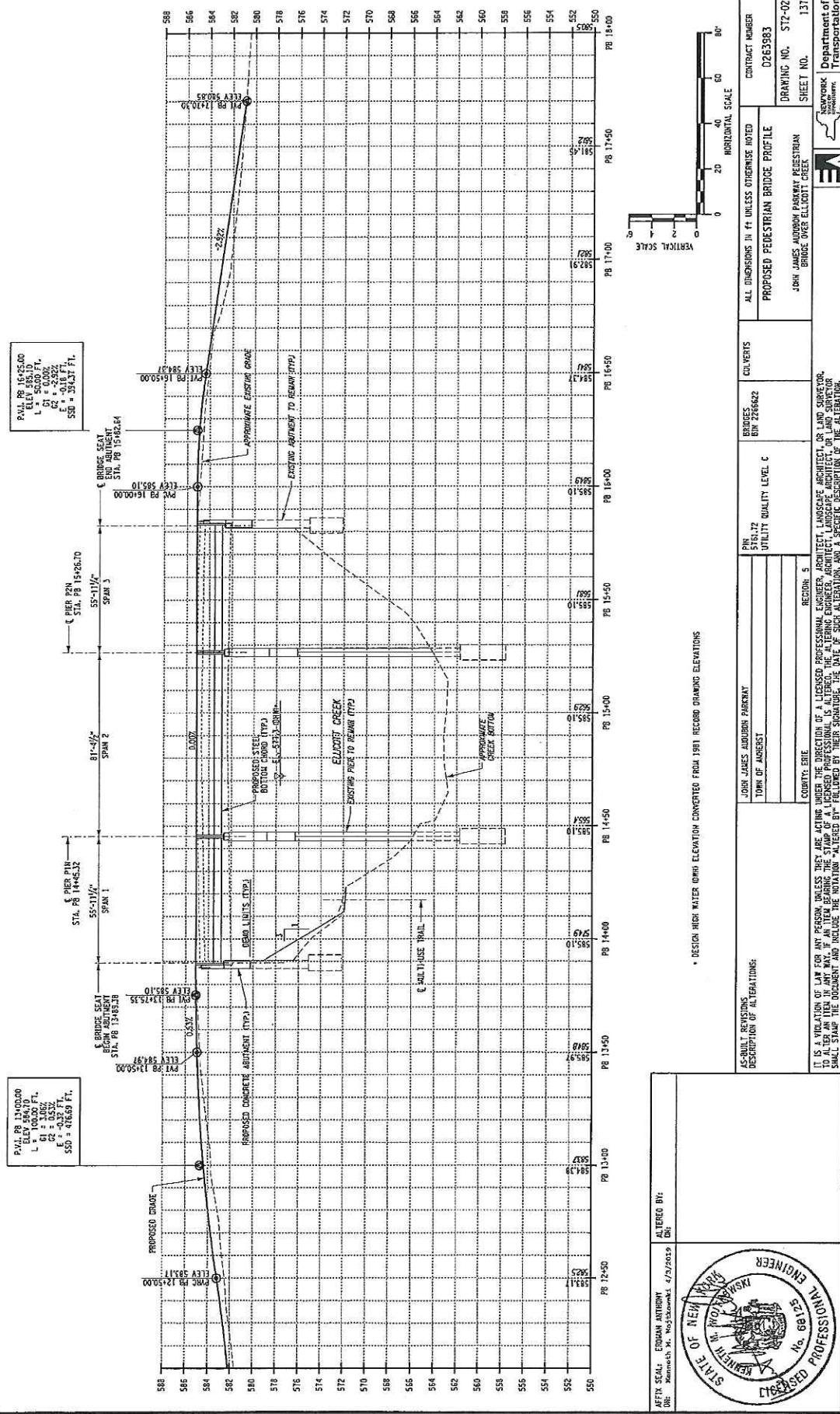
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DESIGN SUPERVISOR: M. GREGORY P. PRESTONI DESIGN: M. BARNHARD CHECK: K. WORTKOSKI PROJECTS I, LINDO CHECK: M. BARNHARD PROJECT MANAGER: C. GARNER

FILE NAME = NMS641-00-11-AUD/2001/Deoxyribonucleic Acid
DATA SOURCE = 146-1
LISER = 02-29 AM